

Hon'ble Irshad Hussain, J.

Heard.

This is a petition under section 482 of the Code of Criminal Procedure (hereinafter referred to as the Code) for quashing the order dated 13.12.2000 passed by the Judicial Magistrate-II, Dehradun as well as the judgment and order dated 04.10.2001 passed by the Additional Sessions Judge, Dehradun whereby the propriety and legality of the order passed by the learned Magistrate was upheld. Both these orders have been assailed on the ground that the order was passed at the back of the complainant.

Perusal of the order of the learned Magistrate does not support the contention because after recording the evidence under section 244 of the Code, it was found that there was no evidence sufficient to frame charge against the accused and in that event, there was no necessity to have the presence of the complainant on that day. This aspect of the matter has also been taken note of by the learned Sessions judge who had also gone through the evidence recorded under section 244 of the Code and since there was no evidence to frame charge under section 406 of the Indian Penal Code in relation to the property said to have been misappropriated, there appears no impropriety in rejecting the revision filed by the present petitioner. In view thereof, the petition has no force and is liable to be dismissed.

The petition is dismissed in limine.

(Irshad Hussain, J.)

29.05.2002./B.